IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE A.GOPAL REDDY**

**WRIT PETITION NO : 10375 of 2004**

Between:

1 Dr. B.Gowri Sankar S/o B.Koteswar Rao
7-1-215/2/A/1 Ameerpet, Hyd
2 Dr.M.Ranganath . S/o M.C.Ranganath
Kurnool Medicial College, Kurnool
3 K.V.Venugopal Reddy S/o K.Rama Krishna Reddy
S.V.S.Medical College, Mahaboobnagar
4 Dr. Ramesh S/o R.Laxma Naik
Kurnool Medical College, Kurnool

**..... PETITIONER(S)**

AND

1. The Government of Andhra Pradesh rep. by its

Principal Secreatry , Helath, Medical & Family
Welfare Department Secrearіat, Hyderabad.
2 The N.T.R.University of Health Sciences,

AP. Vijayawada-520 008

**.....RESPONDENT(S)**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 in notifying 8 seats in various super speciality courses as non-state-wide seats and inviting applications without treating the said seats as State-Wide seats in spite of amendment issued to Andhra Pradesh Educational Institutions (Regulation of Admissions to Super Specialties in the Medical Colleges Rules, 1983 in .G.O.Ms.No.409, Health, Medical & Family Welfare (E2) Department , dt.24/07/2003 treating them as state -wide seats

and proceeding further for competing admissions into various courses of super specialties on that basis as highly arbitrary, illegal and violative of Article 14,16 and 21 of the Constitution of India, and consequentially to direct the respondent to treat the above 8 seats in super-speciality courses notified under Osmania Medical College, Gandhi Medical College, Hyderabad and Andhra Medical College, Vishakapatnam as State-Wide seats for the purpose of admission into super speciality courses after declaring the admission Notification issued by the 2nd respondent dt. 26/05/2004 for the Academic Year, 2004-2005 as void to that extent of 8 seats

**Counsel for the Petitioner:MR.P.V.RAMANA**

**For the Respondent No.1: The Government Pleader for Medical & Health**

**For the Respondent No.2: Smt.Y.Padmavati, Standing Counsel for Medical and Health**

**The Court made the following :**

**ORDER:**

The Government in G.O.Ms.No.3, dated 06.01.2003, G.O.Ms.No.10, dated 23.01.2003 and G.O.Ms.No.125, dated 23-01.2003, accorded permission for starting/ 14 out of 19 Super Speciality seats in various Government Medical Colleges in the State of Andhra Pradesh for the academic year 2002-2003 for which orders were issued for starting/increasing through G.O.Ms.No.14, HM & FW (E2) Department, dated 21-01-2002.

While so, through G.O.Ms.No.409 , dated 24-7-2003, Health, Medical & family Welfare (E2) Departnement, dated 24-7-2003, amended Rule 3 of the A.P.Educational Institutions (Regulation of Admission of Capitation Fee) Act, 1983, while adding Sub-Rule 3(1) is as follows:

"As Super Speciality Courses are having scarce seats, and are unevenly distributed, all the Super Speciality Courses in this State are treated as state Wide Courses until further orders"

Consequent to the amendment to Rule 3, the Government of A.P., General Administration (SPF) Department, through its letter No.69822/SPF/A3/2004, dated 8-6-2004, addressed to the Secretary to Government of India Ministry of Home Affairs, S.R.Wing, New Delhi, requesting that the D.M (Gastroentrology) at Gandhi Medical College, Hyderabd, D.M.(Neurology) at Andhra Medical College, Visakhapatnam, D.M.(Nephrology) at Gandhi Medical College, Hyderabad; Andhra Medical college, Visakhapatnam, D.M (Endocrinology) at Osmania Medical College Hyderabnad; Andhra Medical College, Visakhapatnam, M.Ch.(Plastic Surgery) at Gandhi Medical College, Hyderabad, which were notified by adding the courses in the schedule after item 14 for which reservation for local candidate is provided in Para 6 of the A.P.Educational Institutions (Regulation of Admissions) Order, 1974 is applicable and necessary request was made for adding the new courses for which permission was accorded through the above G.Os to the list in the schedule as State-Wide Courses.

While so, the NTR University of Health Sciences issued notification dated 26-5-2004, seeking to admit the students into the above Super Speciality courses stating them as Non-State-Wide seats. Questioning the said inclusion of the seats as institution wise/non-state-wide seats, the present writ petition is filed contending that once the Rule 3(1) of the Act is amended, the above seats have to be treated as state-wide courses and the University is bound by the amendment so affected, but cannot say as non-state-wide seats.

Opposing the writ petition, necessary counter affidavit has been filed by the 1st respondent, admitting the above amendment of the said Act to that affect but consequent to the said amendmen,t the Presidential Order 74 has to be amended necessarily by the Central Government by the President and unless and until the

eight Super Speciality seats are included in the schedule of the Presidential Order as state wide seats, they cannot be shown as a state-wide seats and there is no illegality in issuing the notification.

This Court in W.P.No.15594 of 2003 directed that until the Presidential Order is suitably amended, the selection and admission in the Super Speciality Courses have to be treated as non state wide seats and N.T.R University has to proceed with finalization of the selection and admission for the said seats for the academic year 2003-2004 treating them as non-state-wide seats as per the Presidential Order 1974.

Learned counsel for the petitioner contends that the counselling for the above seats was held on 23-07-2004 and only the 1st petitioner, who obtained first rank in the state wide is entitled to admission into D.M (Endocrinology) treating one seat as state wide. The other petitioners are not successful and he is not claiming for any relief on their behalf except one seat as above.

On the other hand, learned Government Pleader for M&H and also University Standing counsel for NTR University contends that unless & until the Presidential Order is suitably and strictly amended, including the eight Super Speciality seats as state-wide seats does not arise, university has no option except to admit the students treating them as non state-wide seats.

Admittedly, in the present case, the state Government has already addressed a letter to the Central Government. Meanwhile it could not obtain necessary orders but fair in its attempt to get the Presidential Orders suitably amended. In view of the same, since limited seats are available, University cannot wait till the Presidential Order is suitably amended, and they have to finalize the admission within the time schedule prescribed by the Medical Counsel of India.

In view of the same, the University has no option except to fill the said seats treating them as non-state-wide, and the impugned notification issued by the University did not suffer from any infirmity nor can be treated as arbitrary or illegal in filling the seats as non state-wide seats.

Accordingly, the Writ Petition is dismissed. No costs.

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28th July, 2004.

Mrb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary,
   Government of Andhra Pradesh,
   Helath, Medical & Family Welfare Department
   Secreariat, Hyderabad.

2. The N.T.R.University of Health Sciences,
   AP. Vijayawada-520 008

3. Two CC to GP for Health, Medical & Faily Welfare Department, High Court Buildings, Hyderabad.

4. Two CD copies.